IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4018 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ADAMBHAI IBRAHIMBHAI DASU

Versus

ADDL..DEVELOPMENT COMMISSIONER

Appearance:

MR BS PATEL for Petitioner

MR AJ DESAI, ld.AGP for Respondent No. 1

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 13/04/2000

ORAL JUDGEMENT

Rule. Mr.A.J.Desai, learned Asstt.Govt. Pleader waives service of the Rule.

2. It is the case of the petitioner that he was elected as Sarpanch of the Gram Panchayat Kavi, Taluka

Jambusar, Dist. Bharuch. By an order dated 1.6.1999, the Dist. Development Officer, placed the petitioner under suspension under Sec.59(1) of the Gujarat Panchayats Act, 1993 on the ground of pendency of a criminal case against the petitioner. It is submitted that in that criminal case, the petitioner is facing the charge under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. While the criminal case was yet pending, the petitioner preferred an appeal against the said suspension order before the Addl. Development Commissioner. The Addl. Development Commissioner, entertained the appeal, but did not pass any stay order in petitioner's favour and rejected the stay application without assigning any reason. The petitioner, therefore, approached this Court, challenging the denial of the interim relief at the hands of the appellate authority. The petition has been filed before this Court on 7th June 1999 and on 8th June 1999, this Court issued notice returnable on 5th July 1999 and passed an ex-parte ad-interim order in terms of para 7(B). The case of the petitioner is that his case is fully covered by a decision of this Court in the case of Narabhai Veljibhai Chaudhary v. R.S.Vaghela and ors. reported in 1997(1) GLR 599. This decision has also been referred in the ex-parte order dated 8th June 1999.

3. It is not disputed that the petitioner has been continuing as Sarpanch with the aforesaid Gram Panchayat, Kavi since his election in 1995 and his term is going to expire in May 2000. It is also not disputed by the learned Asstt. Govt. Pleader that his appeal is pending before the Addl. Development Commissioner.

4. In the facts and circumstances of this case, I do not find it necessary to interfere at this stage as I find that the ends of justice will be met if it is ordered that the Addl. Development Commissioner may decide the pending appeal of the petitioner within a period of two months from today and till such time, the position as obtaining today shall continue subject to the condition that if the term of the petitioner's election expires in the meantime, he will automatically cease to be the Sarpanch with the expiry of the term even before the said period of two months. Ordered accordingly. This Special Civil Application is decided and is disposed of in the terms as aforesaid and allowed only to this limited extent. Rule is made absolute accordingly. No order as to costs. Direct service is permitted.

(M.R. Calla, J.)

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Sreeram.